

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

ORIGINAL

IN RE: ENBRIDGE PIPELINE
ILLINOIS LLC.

07-0446

Petition pursuant to Section 8-503,
8-509, 15-401, of the Public Utilities Act -
the Common Carrier by Pipeline Law to
Construct and Operate a Petroleum Pipeline
and when necessary, to Take Private Property
as Provided by the Law of Eminent Domain.

CHIEF CLERK'S OFFICE
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ILLINOIS
COMMERCE COMMISSION

**OBJECTION BY NON-PARTY EXXONMOBIL PIPELINE COMPANY
TO RESUBMITTAL OF VERIFIED APPLICATION
FOR ISSUANCE OF A SUBPOENA DUCES TECUM**

ExxonMobil Pipeline Company ("ExxonMobil Pipeline"), which is not a party to this proceeding, renews its objection to the resubmitted application by Intervenor Pleasant Murphy and the Village of Downs for a *subpoena duces tecum*. As with the original request that this Commission has previously considered and rejected, this renewed Application for Subpoena should also be denied for the following reasons:

1. The parties have already briefed, and the Commission has decided, the Intervenor's request to secure documents from ExxonMobil Pipeline, a non-party. Intervenor's petition offers no reasonable argument why this Commission should again consider these requests and reverse its prior decision.

2. This Commission previously ruled that the original non-party subpoena was "extensive and broadly drawn." (A.L.J. Ruling, Apr. 1, 2008). Although Intervenor's claim that their resubmitted subpoena is "reduced" in scope, the new subpoena is just as broad as the

original, and may even be broader.¹

3. Most importantly, Intervenor's continue to fail to demonstrate that they are "unable to obtain the information from . . . Enbridge . . . , or that Enbridge would not be a proper party from whom to seek it." (A.L.J. Ruling, Apr. 1, 2008). Intervenor's have apparently served only one set of 10 data requests upon the applicant in this proceeding. This resubmitted application provides no explanation for the absence of diligent discovery on the part of Intervenor's against the parties to this proceeding. Intervenor's cite a single data request and a one-sentence reply by Enbridge to Intervenor's sole Data Request of relevance to this subpoena, which states that "Enbridge has no data by which to respond" to a request for "all information sought in the proposed subpoena *duces tecum* being pursued for issuance to the ExxonMobil Pipeline Company." (Ex. C to Renewed Application for Subpoena *filed* May 1, 2008 at 4). Solely on the basis of this sentence, Intervenor's conclude that the information sought is not available from Enbridge. (*See* Renewed Application for Subpoena, ¶ 4). Intervenor's failure to adequately seek discovery from the parties in this proceeding does not demonstrate an inability to obtain the information. Intervenor's have thus failed to demonstrate an inability to find the documents they seek from Enbridge, as they have not asked Enbridge for relevant documents with the requisite specificity. Intervenor's have offered no reason for this Commission to reconsider and reverse its prior decision.

4. ExxonMobil Pipeline is not a party to this proceeding, has *no* connection to the pipeline application currently before this Commission, and has no relationship to Intervenor's. In

¹ The broadest requests – such as the request for the non-party to produce "[a]ll documents relating to, supporting, discussing or evidencing the announced Texas Access Pipeline," (Renewed Proposed Subpoena at 1) remain unchanged from the overbroad original that this Commission has already rejected.


the course of rejecting Intervenor's previous subpoena, the Commission noted that subpoenas on objecting non-parties are an uncommon procedure in front of this Commission. There has been no substantive change since the Commission's prior ruling on this same issue.

* * *

For all these reasons, this Commission should deny Intervenor's resubmitted Application for Subpoena.

Respectfully submitted,

DATED: May 7, 2008

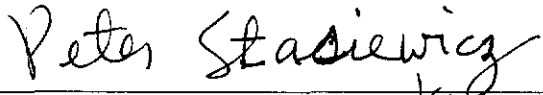
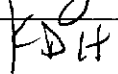


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CERTIFICATE OF SERVICE

I, Peter Stasiewicz, an attorney, certify that I cause copies of the OBJECTION BY NON-PARTY EXXONMOBIL PIPELINE COMPANY TO RESUBMITTAL OF VERIFIED APPLICATION FOR ISSUANCE OF A SUBPOENA DUCES TECUM, to be served on each of the parties listed on the service list via electronic or regular mail, this 7th day of May, 2008.


One of Its Attorneys 

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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ENBRIDGE PIPELINES (ILLINOIS) L.L.C.)

Application pursuant to sections 8-503, 8-509 and)
15-401 of the Public Utilities Act — the Common)
Carrier by Pipeline Law to Construct and Operate a)
Petroleum Pipeline and when necessary, to Take)
Private Property as Provided by the Law of)
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) Docket No. 07-0446

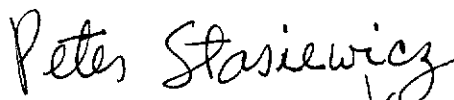
NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on this date we have filed with the Clerk of the Illinois Commerce Commission, ExxonMobil Pipeline Company's Objection By Non-Party Exxonmobil Pipeline Company To Resubmittal Of Verified Application For Issuance Of A Subpoena Duces Tecum in the above-captioned matter.

Respectfully submitted,

DATED: May 7, 2008



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